

Remarks / Arguments

Claims 1-18 were previously canceled, and claims 19-35 were previously withdrawn. Claims 36-42 as previously presented are currently pending in this application.

Claim Rejections under 35 U.S.C. §103(a)

In the Response filed on September 9, 2010, the Applicants argued that the combination of references suggested by the Examiner would lead to an inoperable result because the steam injections of Seneau would be ineffective due to a sealing layer described the remaining references forming a protective barrier between the dough and the steam.

In the final Office Action mailed on November 19, 2010, the Examiner states that "this argument is not persuasive because it is a conclusion without any factual evidence. It is not clear what applicant means by steam being ineffective; in what way is the steam ineffective."

As noted in Applicants' September 9, 2010 Response, Seneau teaches the use of steam injections during baking to provide moisture in the product while it is baking in order to achieve the desired moisture content in the finished product. Specifically, at column 2, lines 54-63, Seneau states:

"The oven is then injected with a jet of steam in order to contribute to the volume of the bread and accentuate the definition of the slash marks on the top of the loaf...Before the completed baking time, however, the over (sic) (oven) is given a second jet of saturated steam thus allowing the product to retain a substantial amount of moisture, about 20% more than a fully baked product."

Also, at column 4, lines 14-25, Seneau states:

"During baking, the oven is injected with a jet of steam in order to contribute to the volume of the bread...Before, however, the completed baking time is reached, the oven is given a second jet of saturated steam, thus allowing the product to retain a substantial amount of moisture, in the order of about 20% more than a fully baked product..."

Therefore, by injecting the oven environment with steam, Seneau delays the onset of crust formation (first steam injection) by using steam to keep the moisture content of the outer surface of the dough at a certain level at which the dough can still expand and achieve the desired volume. Seneau then applies a second jet of saturated steam to the baking dough so that the dough ends up with a 20% moisture content after par-baking.

Finally, at column 4, lines 37-43, Seneau states:

"One of the truly unique aspects of the processing is the last injection of steam before the 84% pre-baked finality is achieved. This enables the end-user to have a product with a completely sealed crust that will not separate from the loaf."

Clearly, from Seneau, it is critical that the injected steam be able to interact with and absorb into the outer surface of the dough for these two effects (delayed crust formation and increased moisture content) to occur.

If, however, the dough in Seneau had a sealing layer **applied to its surface prior to baking**, as the Examiner is suggesting, the moisture from the saturated steam injections described in Seneau would **not be able to penetrate the sealing layer** (otherwise it is not a sealing layer by definition) during baking and have their intended effects on the dough. This is especially true if the "sealing layer" is made of a fat or oil as described in the "Baking with Julia", "Breads", "Professional Baking" and "How to Bake" references. Fats and oils are known to be inherently hydrophobic and would therefore be extremely effective in keeping external moisture, such as the saturated steam injections of Seneau, from penetrating the sealing layer to interact with the outer surface of the dough. One of ordinary skill in the art therefore would **not have a reasonable expectation of successfully** achieving the goals outlined in Seneau for a par-baked product by using the teachings of the other references and applying a fat or oil layer on the outer surface of the Seneau dough prior to par-baking.

The Examiner is proposing a modification that renders Seneau **unsatisfactory** for its intended purpose, so there is no suggestion or motivation to make the proposed modification. See MPEP 2143.01(V). The Examiner is also proposing a change that **changes the principle of**

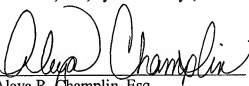
operation of the Seneau reference, so the teachings of the references are not sufficient to render the claims *prima facie* obvious. See MPEP 2143.01(VI).

The Examiner appears to be using impermissible hindsight reconstruction based on the pending application to make the proposed modifications. One of ordinary skill in the art would find no implied or express teaching, suggestion, motivation or reason to combine the teachings of the cited references and make the modifications suggested by the Examiner, particularly in light of MPEP 2143.01 (V) and (VI) described above. The Examiner has not made a proper case of *prima facie* obviousness, and favorable reconsideration of the rejection of these claims under 35 U.S.C. 103(a) is respectfully requested.

In view of the foregoing Remarks, claims 36-42 are believed to be in proper form for allowance and are believed to be patentable over the art made of record. Applicant respectfully requests withdrawal of the rejection of claims 36-42 and a timely Notice of Allowance of these claims.

Please charge any fees associated with this Response to Deposit Account No. 02-3732. Please direct any questions or comments regarding this application to the undersigned attorney.

Respectfully submitted,
General Mills, Inc., by its attorneys,

By: 
Aleya R. Champlin, Esq.
Registration No. 36,251
Briggs and Morgan, P.A.
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402
Telephone: 612-977-8227

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